IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21544 of 2004

Between:

L. Narasimha Reddy, S/o. Pedda Gangi Reddy,
Brahmanapalli Village, Puttaparthy Mandal, Anantapur District.

..... PETITIONER

AND

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Penukonda, Anantapur District.
3 The Mandal Revenue Officer, Puttaparthy, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 1st respondent in not disposing of the appeal and stay petition in file in Rc.No. K4/PKD/1021/2004 as illegal, arbitrary and without jurisdiction and consequently set-aside the order of the 2nd respondent in Rc.No. 1128/2004 and direct the respondents to permit the petitioner to continue as Fair Price Shop Dealer of Brahmanapalli Village of Puttaparthi Mandal, Anantapur District.

Counsel for the Petitioner:MR.K.SRINIVAS

Counsel for the Respondent No.: GP FOR REVENUE

The Court at the stage of admission made the following ORDER:

Petitioner was appointed as a fair price shop dealer in the year 1987. He was served with a suspension order-cum-show cause notice dated 14.07.2004, wherein four charges were levelled against him. Aggrieved by the same, the petitioner claims to have preferred an appeal before the first respondent together with an application for grant of stay. The first respondent is said to have not passed any order so far. The petitioner seeks appropriate directions in this writ petition to enable him to continue as fair price shop dealer.

Heard learned counsel for the petitioner and learned counsel for the respondents.

Basically, once the petitioner had availed the remedy of appeal, he has to await the outcome of the same and it would be in very rare cases this Court would interfere with the orders including such appeals. This case, however, presents a peculiar and typical situation.

The first charge levelled against the petitioner is that he sold 35 liters of kerosene oil at Rs.12/- per liter to one Mr. Anwar Basha. The other three charges are almost trivial in nature. In the second charge, it was alleged that the petitioner was distributing the P.D.S. rice at Rs.5.50 per Kg. instead of Rs.5.25 per Kg. The third charge relates to failure to mention certain quantity in the stock register. The fourth charge is general and vague wherein it was stated that the petitioner was not distributing the sugar by weighment.

The third respondent, the Mandal Revenue Officer, initiated proceedings under Section 6-A of the Essential Commodities Act, 1955 before the first respondent against the petitioner and one Mr. Anwar Basha in relation to 35 liters of kerosene, which formed the basis for charge No.1. Through his orders dated 09.11.2004, the first respondent held that there is nothing on record to disclose that kerosene found with Anwar Basha is from the fair price shop of the petitioner. Thereby, charge No.1 levelled against the petitioner stood deleted from the suspension order-cum-show cause notice. Other three charges, as observed earlier, are trivial in nature. Though the appeal is said to have been preferred before the first respondent several months back, he has not chosen to pass interim or final orders therein.

Having regard to the findings recorded by the first respondent in his order dated 09.11.2004, this Court is of the view that the suspension of the petitioner is not warranted any longer.

Hence, the writ petition is allowed directing that the suspension of the petitioner through proceedings dated 14.07.2004 issued by the second respondent shall stand stayed till the disposal of the final proceedings by him. The second respondent shall pass final orders in pursuance of the show cause notice, as early as possible, and not later than eight weeks from the date of receipt of a copy of this order. No order as to costs.

24.11.2004

Note:

Issue C.C. in two days.

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To

1 The Joint Collector, Anantapur, Anantapur District.
2 The Revenue Divisional Officer, Penukonda, Anantapur District.
3 The Mandal Revenue Officer, Puttaparthy, Anantapur District.

4 Two CCs. to the G.P. for Civil Supplies, High Court of A.P.(OUT)

5 Two CD copies.